

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

JOEL SPIGELMAN,

Defendant.

05-CR-960-1 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

Defendant Joel Spigelman has filed a request for leave to file a second or successive motion under 28 U.S.C. § 2255. (Dkt. No. 194.) However, before a second or successive § 2255 motion can be filed in district court, a movant must seek authorization from the appropriate court of appeals. 28 U.S.C. § 2244(b)(3)(A). Spigelman must therefore move in the United States Court of Appeals for the Second Circuit for leave to file a second or successive § 2255 motion.

Spigelman has also filed requests for this Court to appoint him counsel. (Dkt. No. 193, 198.) However, given that the Second Circuit must assess whether Spigelman will be allowed to file a successive § 2255 motion at all, it would be premature for this Court to appoint counsel at this stage.

Accordingly, the Court hereby transfers the request to file a second or successive § 2255 motion to the United States Court of Appeals for the Second Circuit. Defendant Spigelman's requests for counsel are hereby DENIED without prejudice. The Government is directed to mail a copy of this order to Defendant Spigelman, and file proof of service on the docket.

As Defendant Spigelman makes no substantial showing of a denial of a constitutional right, a certificate of appealability will not issue. *See* 28 U.S.C. § 2253.

The Clerk of Court is directed to close the motion at Docket Number 194.

SO ORDERED.

Dated: July 1, 2020
New York, New York



J. PAUL OETKEN
United States District Judge